

News from Ed Markey

United States Congress

Massachusetts Seventh

District

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MARKEY RELEASES REPORT DETAILING "BOTCHED" SEC APPOINTMENT PROCESS

Washington, DC: Rep. Edward J. Markey (D-MA) today released a report from the General Accounting Office (GAO) regarding the mishandling of the selection process for appointing members of the Public Company Accounting Board by the SEC. The report details the breakdown of the appointment process, the lack of a systematic vetting process, and the failure to keep commissioners informed prior to key votes on who to appoint. The entire report, compiled in response to a request from Senator Paul Sarbanes (D-MD), Rep. John Dingell (D-MA) and Rep. Barney Frank (D-MA), as well as to questions directed to the SEC by Rep. Markey, which the SEC chose to answer through the GAO, is available at www.gao.gov (GAO-03-339 PCAOB Selection Process.)

"The GAO report reveals that SEC Chairman Pitt and his top staff approached their most important task since joining the agency without a plan, without a coherent process, and without proper consultation with SEC commissioners, said Markey. "As a result, Chairman Pitt and his senior staff botched the selection of members for the new accounting board created by the Sarbanes Act, and they managed to make worse the collapse of investor trust in the aftermath of widespread accounting scandals."

First, he failed to develop a clear process for selecting and vetting board candidates.

Second, Chairman Pitt completely fumbled the consideration of John Biggs to be Chairman, first agreeing to support him and then backing away from him when another Commissioner objected to one of Chairman Pitt's other proposed nominees for the Board.

Then, once Chairman Pitt had settled on William Webster as a candidate for the Chairmanship of the Board, he failed to promptly investigate information provided by William Webster about his involvement with U.S. Technologies, a company that he described as on the brink of failure. It was not until press reports the night before the Commission's scheduled vote raised questions about U.S. Technologies that Mr. Herdman actually directed his staff to review the companies' filings. This, simple last-minute check revealed that at a time when Mr. Webster had served as chairman of U.S. Technologies' audit committee, the company had fired its auditor a month after material internal control weaknesses were reported. Despite the significance of this information to the SEC's

consideration of Mr. Webster's qualifications to serve as chairman of the oversight board, the SEC's chief accountant decided not to pass this information along to the SEC Commissioners who were voting that very day on board membership. This comedy-of-errors has badly wounded the new accounting oversight board as it begins work on the important accounting reform agenda established by the Sarbanes Act."

Markey also criticized the Bush Administration for under-funding the SEC:

"The White House and the Republican-controlled Congress have made a bad situation even worse. Despite pledging support for corporate and accounting reforms, Republicans in Congress have twice refused to fund the SEC at the \$776 million funding level provided in the bill, or to include funding for the new accounting oversight board in continuing resolutions passed to keep the government running. After fighting the Sarbanes Act until the eleventh hour, the Bush Administration now has frozen the SEC's budget at the 2002 levels, continuing them on their approximately \$540 million annualized "starvation diet." This action denies them the funds necessary to effectively implement the new law. The Bush Administration has pledged to increase the SEC's funding, but not until 2004, which could be too late for many investors."

Rep. Markey called on the SEC to

1. Establish a formal, systematic process for selecting and vetting candidates for the accounting board. The SEC must ensure that the future members are thoroughly vetted to avoid a repeat of the debacle surrounding the appointment of Mr. Webster.
2. Select a chairman of the oversight board who is fully committed to implementing real reform of the accounting industry.
3. Push for full, immediate funding of the SEC and the Board at the level authorized by the Sarbanes Act.

"The SEC has estimated that American families have lost an average of \$60,000 each as a result of accounting fraud," Markey concluded. "Jobs are at stake. A starving SEC is a weak SEC, and a weak SEC guarantees drift, uncertainty, and disinvestments in our capital formation system. It's time for Republicans in Congress to provide the board the funds it needs to root out the accounting tricks that have devastated the investment accounts of Americans across the country."

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